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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,907	03/06/2002	James H. Levine	06523-101	2728
7590 09/06/2005 JOOP F. HOEKSTRA 14 WESTVIEW ROAD MEDFIELD, MA 02052			EXAMINER MATHEW, FENN C	
			ART UNIT 3764	PAPER NUMBER

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,907

Applicant(s)

LEVINE ET AL.

Examiner

Fenn C. Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-4 are rejected under 35 U.S.C. 102(e) as being anticipated by McMillen (U.S. 6,676,214). McMillen teaches a flexible sheet (18/) having two ends for supporting the user, actuation means for bending the flexible sheet wherein the actuation means comprises a motor (28) having a shaft, a pulley connected to the shaft, and a cable (20) having a first end connected to the pulley, and the second end connected to an end of the flexible sheet, wherein the radius of the flexible sheet can be increased or decreased. Referring to claim 3, McMillen further teaches control means. As best understood, McMillen teaches a limit switch (in the form of the control means) which controls the level of arc.

2. Claims 2-3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Linares (U.S. 6,569,069). Linares teaches a flexible sheet (14), actuation means in the form of a motor with a shaft (1), including a pulley and a cable, with one end of the cable attached to the pulley, and a second end of the cable attached to the end of the flexible sheet. Linares further teaches control means.

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Referring to claim 7, Linares teaches a support connected to the second end of the flexible sheet (at 12).

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMillen alone. Limitations drawn to specifics of the control means such as 'timer means' and specific buttons are considered obvious, as the skilled artisan would have been inclined to utilize a variety of different control means in order to affect device function.

Allowable Subject Matter

5. The indicated allowability of claim 2 is withdrawn in view of the newly discovered reference(s) to Linares and McMillen. Rejections based on the newly cited reference(s) are noted above.
6. In view of the newly found art which although does not envision Applicant's invention, claims are broad enough to have the cited prior art read on them. In view of the broadness of the claims, Examiner suggests including the limitations 'at least a first and second pulley attached to the shaft', 'at least a first and second cable each having a first end and a second end, with the first end of the first cable attached to the first pulley and the second end of the first cable

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attached to said first end of the flexible sheet, and the first end of the second cable attached to the second pulley and the second end of the second cable attached to said second end of the flexible sheet'. Examiner also suggests language parlaying the idea that the flexible sheet engages a horizontal surface, as the current makeup of the claims lacks any discussion of a support surface. These limitations are suggested in order to overcome the prior art of record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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September 1, 2005

Michael A. Brown

MICHAEL A. BROWN
PRIMARY EXAMINER